

JS-44 (Rev. 06/17)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFF

GREAYS MENDO

(b) County of Residence of First Listed Plaintiff Montgomery
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Vicki A. Piontek, Esquire, Piontek law Office, 951 Allentown Road,
Lansdale, PA 19446; (v) 877-737-8617; palaw@justice.com

DEFENDANTS

DIVERSIFIED CONSULTANTS INC.

County of Residence of First Listed Defendant 18
(IN U.S. PLAINTIFF CASES ONLY) 2005

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Richard J. Perr, Esquire, Fineman Krekstein & Harris, P.C., Ten Penn
Center, Suite 1100, 1801 Market Street, Philadelphia, PA 19103; (v)
215-893-9300; rperr@finemanlawfirm.com

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Other to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Fair Debt Collection Practices Act 15 USC sec. 1692 & Telephone Consumer Protection Act, 42 USC sec. 227

Brief description of cause:

Plaintiff sued Dft alleging violations of Fair Debt Collection Practices Act & Telephone Consumer Protection Act

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

05/11/2018

SIGNATURE OF ATTORNEY OF RECORD

Richard J. Perr

RJP #156

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) **Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. **Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
- United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. **Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. **Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. **Origin.** Place an "X" in one of the seven boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
- PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. **Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. **Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. **Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA --- DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 447 East Airy Street, Norristown, PA 19401

Address of Defendant: 10550 Deerwood Park Blvd., # 309, Jacksonville, FL 32256

18 2005

Place of Accident, Incident or Transaction: Montgomery County

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% of more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed. R. Civ. P. 7.1(a))

Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE IF ANY

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court? Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☒ All other Federal Question Cases
(Please specify) (15 U.S.C. sections 1692, et seq.)

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability -- Asbestos
9. ☐ All other Diversity Cases
(Please specify)

ARBITRATION CERTIFICATION

(Check appropriate Category)

I, _____, counsel of record do hereby certify:

- ☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- ☐ Relief other than monetary damages is sought.

DATE: _____

Attorney-at-Law

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 05/11/2018

Richard J. Perr
Richard J. Perr, Esquire
Attorney for Defendant.

RJP #156

72883
Attorney I.D.#

RBSIN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIACASE MANAGEMENT TRACK DESIGNATION FORMGREAYS MENDOZA,
Plaintiff

v.

DIVERSIFIED CONSULTANTS INC.,
Defendant

CIVIL ACTION

NO. **18 2005**

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus -- Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security -- Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff's Social Security Benefits. ()
- (c) Arbitration -- Cases required to be designated for arbitration under Local Civil Rule 53.2. (X)
- (d) Asbestos -- Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management -- Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management -- Cases that do not fall into any one of the other tracks. ()

5/11/2018
Date
 RJP #156
RICHARD J. PERR, ESQUIRE

Attorney for Defendant

215-893-8724
Telephone215-893-8719
FAX Numberrperr@finemanlawfirm.com
E-Mail Address

\$400

RBS

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

1

GREAYS MENDOZA,
Plaintiff

CIVIL ACTION

v.

DIVERSIFIED CONSULTANTS INC.,
Defendant

NO.

18 2005
FILED
MAY 11 2018

NOTICE OF REMOVAL

Defendant Diversified Consultants Inc. ("Defendant" or "DCI"), by its undersigned
counsel, hereby petitions this Court as follows, pursuant to 28 U.S.C. § 1441(a):

1. DCI is a defendant in an action pending in the Court of Common Pleas of Montgomery County, Civil Action No. 2018-03352 ("the State Court Action"). A true and correct copy of the Complaint in the State Court Action is attached hereto as Exhibit "A".

2. Plaintiff in the State Court Action is Greays Mendoza ("Plaintiff"). See Exhibit "A".

3. Plaintiff's State Court Action alleges violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.*, and the Telephone Consumer Protection Act, 42 U.S.C. § 227.

4. The State Court Action involves a question of federal law. Pursuant to 28 U.S.C. § 1331, "The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States."

5. Pursuant to 28 U.S.C. § 1441(a), "[a]ny civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the

defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending.”

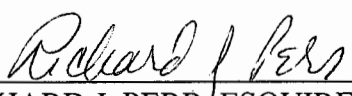
6. Since this case arises out of alleged violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.*, and the Telephone Consumer Protection Act, 42 U.S.C. § 227, Defendant may properly remove the State Court Action to this Court based on 28 U.S.C. § 1441(a).

7. This Notice has been filed with the Court within thirty (30) days after purported service of the Complaint on Defendant.

WHEREFORE, Defendant Diversified Consultants Inc. prays that the State Court Action be removed from the Court of Common Pleas of Montgomery County, Civil Action No. 2018-03352, to this Court for proper and just determination.

FINEMAN KREKSTEIN & HARRIS, P.C.

By:


RICHARD J. PERR, ESQUIRE
MONICA M. LITTMAN, ESQUIRE
(PA Atty. I.D. Nos. 72883 & 94134)
Ten Penn Center
1801 Market Street, Suite 1100
Philadelphia, PA 19103-1628
(v) 215-893-9300; (f) 215-893-8719
rperr@finemanlawfirm.com
mlittman@finemanlawfirm.com
Attorneys for Defendant

RJP #156

Dated: May 11, 2018

CERTIFICATE OF SERVICE

I, RICHARD J. PERR, ESQUIRE, hereby certify that on this date I served a true and correct copy of the foregoing electronically via the Court's CM/ECF system, by first class mail, postage prepaid, and/or email or facsimile on the following:

Vicki A. Piontek, Esquire
Piontek Law Office
951 Allentown Road
Lansdale, PA 19446
(v) 877-737-8617; (f) 866-408-6735
palaw@justice.com

FILED
MAY 11 2018
By KATE BARKMAN, Clerk
Dep. Clerk

Richard J. Perr *RJP #156*

RICHARD J. PERR, ESQUIRE

Dated: May 11, 2018

EXHIBIT A

IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY, PENNSYLVANIA

GREAYS MENDOZA

vs.

DIVERSIFIED CONSULTANTS INC

NO. 2018-03352

NOTICE TO DEFEND - CIVIL

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

LAWYER REFERENCE SERVICE
MONTGOMERY BAR ASSOCIATION
100 West Airy Street (REAR)
NORRISTOWN, PA 19404-0268

(610) 279-9660, EXTENSION 201

PRIF0034
R 10/11

IN THE COURT OF COMMON PLEAS
OF MONTGOMERY COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

Greays Mendoza	:	
447 E AIRY ST	:	
Norristown, PA 19401	:	2018-03352
Plaintiff	:	
v.	:	
Diversified Consultants, Inc.	:	Jury Trial Demanded
10550 Deerwood Park Blvd #309	:	
Jacksonville, FL 32256	:	
Defendant	:	

NOTICE

YOU HAVE BEEN SUED IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIMS SET FORTH IN THE FOLLOWING PAGES, YOU MUST TAKE ACTION WITHIN TWENTY (20) DAYS AFTER THE COMPLAINT AND NOTICE ARE SERVED BY ENTERING A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILING IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE CLAIMS SET FORTH AGAINST YOU. YOU ARE WARNED THAT IF YOU FAIL TO DO SO THE CASE MAY PROCEED WITHOUT YOU AND A JUDGMENT MAY BE ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR ANY MONEY CLAIMED OR FOR ANY OTHER CLAIM OR RELIEF REQUESTED BY THE DEFENDANT. YOU MAY LOSE MONEY OR PROPERTY OR OTHER RIGHTS IMPORTANT TO YOU.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

LAWYER REFERENCE SERVICE
MONTGOMERY COUNTY BAR ASSOCIATION
100 West Airy Street (REAR), NORRISTOWN, PA 19401
(610) 279-9660, EXTENSION 201

Montgomery County Legal Aid Services
625 Swede Street, Norristown, PA 19401
610-275-5400

IN THE COURT OF COMMON PLEAS
OF MONTGOMERY COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

Greays Mendoza
447 E AIRY ST
Norristown, PA 19401

Plaintiff

2018-03352

v.
Diversified Consultants Inc.
10550 Deerwood Park Blvd #309
Jacksonville, FL 32256

Defendant

Jury Trial Demanded

COMPLAINT

1. This is a lawsuit for damages brought by an individual consumer for Defendant(s)' alleged violations of the Telephone Consumer Protection Act, 47 USC § 227 et. seq. (hereinafter "TCPA"), as well as for Defendant(s) alleged violations of the Fair Debt Collection Practices Act, 15 U.S.C. 1692, et seq. (hereinafter "FDCPA").
2. Jurisdiction is proper in this jurisdiction because Defendant(s) regularly transact(s) business throughout this jurisdiction.
3. Defendant obtains the benefit(s) of regularly transacting business in this jurisdiction.
4. As substantial portion of the transaction(s), occurrence(s), act(s) or omissions occurred in this jurisdiction.

5. Venue is proper because substantially portion of the conduct complained of occurred in this jurisdiction.
6. Plaintiff is Greasy Mendoza, an adult individual with a current address of 447 E. AIRY ST, Norristown, PA 19401.
7. Defendant is Diversified Consultants Inc., a business engaged in consumer debt collection with a principle place of business located at 10550 Deerwood Park Blvd #309, Jacksonville, FL 32256.

COUNT ONE: VIOLATION OF THE TELEPHONE CONSUMER PROTECTION

ACT (TCPA) 47 USC § 227 ET. SEQ.

8. The previous paragraphs are incorporated by reference and made a part of this complaint.
9. In 1991, Congress enacted the Telephone Consumer Protection Act, 47 U.S.C. § 227 (TCPA), in response to a growing number of consumer complaints regarding certain telemarketing practices.
10. The TCPA regulates, among other things, the use of automated telephone equipment, or “autodialers.” Specifically, the plain language of section 227(b)(1)(A)(iii) prohibits the use of autodialers to make any call to a wireless number in the absence of an emergency or the prior express consent of the called party.
11. According to findings by the Federal Communication Commission (“FCC”), the agency Congress vested with authority to issue regulations implementing the TCPA, such calls are prohibited because, as Congress found, automated or prerecorded telephone calls are a greater nuisance and invasion of privacy than live solicitation calls, and such calls can be costly and inconvenient. The FCC also recognized that wireless customers are charged for incoming calls whether they pay in advance or after the minutes are used.

12. On January 4, 2008, the FCC released a Declaratory Ruling wherein it confirmed that autodialed and prerecorded message calls to a wireless number by a creditor (or on behalf of a creditor) are permitted only if the calls are made with the “prior express consent” of the called party. The FCC “emphasize[d] that prior express consent is deemed to be granted.
13. At all times relevant, Plaintiff was a “person” as defined by 47 U.S.C. § 153(10).
14. Prior to the commencement of this action, Plaintiff’s mother, Isabel Bermudez, engaged in a consumer credit transaction which was the subject of Defendant’s collection activity.
15. Plaintiff’s mother’s account went into collections, and the account was referred to Defendant(s) for the purpose of collection.
16. The account which pertained to Plaintiff’s mother was a consumer account because it was for person, household or family purposes.
17. At no time did Plaintiff or Plaintiff’s mother provide Defendant with Plaintiff’s cell phone number.

18. At no time did Plaintiff or Plaintiff's mother provide the original alleged creditor for the account that was the subject of Defendant's collection activity with Plaintiff's cell phone number.
19. It is believed and averred that Defendant used some method or mechanism to look up Plaintiff's cell phone number in order to facilitate the calls.
20. On various occasions within the applicable statute of limitations prior to the commencement of this action, Defendant contacted Plaintiff on Plaintiff's cellular telephone.
21. It is believed and averred that several of the telephone calls by Defendant to Plaintiff on Plaintiff's cellular telephone occurred via an "automatic telephone dialing system," as defined by 47 U.S.C. § 227(a)(1), and all calls that are the subject of this Complaint occurred within four years of the filing of this Complaint.
22. It is believed and averred that one or more of the telephone calls placed by Defendant to Plaintiff's cellular telephone were made using an "automatic telephone dialing system," as defined by 47 U.S.C. § 227 et. seq.
23. Such automated calls were made by Defendant(s) to Plaintiff's cellular telephone service as defined in 47 U.S.C. § 227(b)(1)(A)(iii).

24. Plaintiff did not provide “express consent” to receive automated telephone calls on Plaintiff’s cellular telephone.
25. The calls that were made by Defendant(s) to Plaintiff’s cellular telephone were not made for emergency purposes.
26. Defendant’s telephone calls to Plaintiff’s cellular phone utilizing an “automatic telephone dialing system” for non-emergency purposes and in the absence of Plaintiff’s prior express consent violated 47 U.S.C. § 227(b)(1)(A).
27. Under the TCPA and pursuant to the FCC’s January 2008 Declaratory Ruling, the burden is on Defendant to demonstrate that Plaintiff provided express consent within the meaning of the statute.
28. Plaintiff believes and avers that Plaintiff received no less than 10 automated calls on Plaintiff’s cell phone from Defendant(s), and probably more that came in, but Plaintiff was not able to document.

**COUNT TWO: VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT,
15 USC 1692f, et. seq.
Unlawful and Unconscionable Collection Activity**

29. All previous paragraphs of this complaint are incorporated by reference and made a part of this portion of the complaint.
30. At all relevant times mentioned in this Complaint, Plaintiff's mother, Isabel Bermudez, was a consumer debtor as defined by the Fair Debt Collections Practices Act (FDCPA), 15 USC 1692 et. seq.
31. At all times mentioned in this Complaint Defendant was acting as a debt collector as defined by the FDCPA, 15 USC 1692 et. seq.
32. At all times mentioned herein, Defendant(s) was / were attempting to collect on an alleged consumer debt against Plaintiff's mother.
33. Within the applicable statute of limitations prior to the commencement of this action, Defendant(s) contacted Plaintiff by telephone and violated the above referenced provisions of TCPA.
34. 15 USC 1692 f of the FDCPA prohibits a debt collector from engaging in any unlawful, illegal or unconscionable collection activity while the debt collector is attempting to collect a debt.,

35. By violating TCPA, Defendant(s) also violated 15 USC 1692 f, et, seq., by engaging in unlawful, illegal and unconscionable collection activity.

36. Plaintiff was the daughter of the intended recipient of Defendant(s)' aforementioned telephone calls, and was affected by such calls. Plaintiff therefore has standing under 15 USC 1692k to sue under the FDCPA.

**COUNT THREE: VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT
(FDCPA), 15 USC 1692e and 15 USC 1692f, et. seq.
Unlawful and Unconscionable Collection Activity
“Spoofing”**

37. The previous paragraphs of this Complaint are incorporated by reference and made a part of this Complaint.

38. Plaintiff is a consumer debtor as defined by the Fair Debt Collections Practices Act (FDCPA), 15 USC 1692 et. Seq.

39. Defendant is a debt collector as defined by the FDCPA, 15 USC 1692 et. seq.

40. Defendant is engaged in the practice of collecting primarily consumer debts against people throughout the United States.

41. At all times mentioned herein, Defendant(s) was attempting to collect on an alleged consumer debt against Plaintiff's Mother, Isabel Bermudez.

42. 15 USC 1692 f of the FDCPA prohibits a debt collector from engaging in any unlawful, illegal or unconscionable collection activity while Defendant(s) was attempting to collect a consumer debt from an unknown person, but not Plaintiff.

43. 15 USC 1692e of the FDCPA prohibits a debt collector from engaging in any misleading or false collection activity while Defendant(s) was attempting to collect a consumer debt from Plaintiff.
44. During the approximate timeframe of February, 2018, Defendant contacted Plaintiff by telephone and used the following telephone numbers on its called ID as the identification number when Defendant called Plaintiff.
 - a. 215-372-1655
 - b. 215-372-1685
 - c. 215-372-1688
45. Defendant's office is located in Jacksonville, Florida.
46. The above referenced telephone numbers that appeared as Defendant's caller ID are Pennsylvania phone numbers, and not Jacksonville, Florida telephone numbers.
47. It is believed and averred that that the phone call originated outside of the state of Pennsylvania.
48. It is believed and averred that Defendant does not have a place of business located in Pennsylvania that corresponds to the above referenced telephone numbers that appeared on Defendant's caller ID.

49. It is believed and averred that the use of the above referenced telephone telephone numbers on Defendant's caller ID was deceptive and confusing to the consumer because the appearance of the such telephone phone numbers gave the false impression to Plaintiff that the phone call was coming from Pennsylvania when in fact the phone call was not coming from Pennsylvania.
50. It is believed and averred that the use of the false caller ID numbers was a violation of 15 USC 1692e, failure to disclose identity, and 15 USC 1692 f deceptive and unconscionable collection practices.
51. Using a fake caller ID is colloquially referred to as "spoofing."
52. Under the Truth in Caller ID Act, FCC rules prohibit any person or entity from transmitting misleading or inaccurate caller ID information *with the intent to defraud, cause harm, or wrongly obtain anything of value*. If no harm is intended or caused, spoofing is not illegal. Anyone who is illegally spoofing can face penalties of up to \$10,000 for each violation. In some cases, spoofing can be permitted by courts for people who have legitimate reasons to hide their information, such as law enforcement agencies working on cases, victims of domestic abuse or doctors who wish to discuss private medical matters. See FCC website <https://www.fcc.gov/consumers/guides/spoofing-and-caller-id>.

Case# 2018-03352-2 Docketed at Montgomery County Prothonotary on 04/08/2018 10:05 AM, Fee = \$0.00. The filer certifies that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

53. Defendant's misconduct was deceptive because it created the false impression that call originated from a local caller to entice Plaintiff or Plaintiff's daughter to take the call.

54. Defendant's misconduct was unconscionable because it violated the Truth in Caller ID Act, and because it was deceptive

LIABILITY

55. All previous paragraphs of this complaint are incorporated by reference and made a part of this complaint.
56. Defendant(s) is liable to Plaintiff(s) for the acts committed by its agents under the doctrine of respondeat superior because Defendant's agents were acting within the scope of their employment with Defendant.
57. In the alternative, Defendant(s) is liable for the conduct of its agents / employees under the theory of joint and several liability because Defendant and its agents / employees were engaged in a joint venture and were acting jointly and in concert.
58. Any mistake made by Defendant(s) would have included a mistake of law.
59. Any mistake made by Defendant (s) would not have been a reasonable bona fide mistake.

DAMAGES

60. All previous paragraphs of this complaint are incorporated by reference and made a part of this portion of the complaint.
61. At least \$1.00 actual damages, including but not limited to phone, fax, stationary, postage, etc.
62. Plaintiff believes and avers that Plaintiff is entitled to \$1,000.00 statutory under the FDCPA 15 USC 1692k, and under TCPA.
63. Plaintiff believes and avers that Plaintiff is entitled to at least \$500.00 per call that Plaintiff received from Defendant(s) in violation of TCPA.
64. Plaintiff believes and avers that there was at least 10 separate automated telephone calls to Plaintiff's cell phone which were made by Defendant(s), thereby warranting no less than \$5,000 in statutory damages.
65. Plaintiff suffered emotional distress with a Dollar value to be proven at trial.

ATTORNEY FEES

66. All previous paragraphs of this complaint are incorporated by reference.

67. If Plaintiff prevails in this action, Plaintiff is entitled to reasonable attorney fees.

68. Plaintiff believes and avers that Plaintiff's attorney fees are at a reasonable rate of \$350 per hour or other amount determined by this Honorable Court

69. in this matter at a rate of no less than \$350 per hour, or other rate that this Honorable Court deems just and fare, pursuant the fee shifting provision of TCPA and FDCPA.

70. Plaintiff Plaintiff's attorney fees of \$1,740.00 at a rate of \$350.00 per hour, are enumerated below.

- | | |
|---|---|
| a. Consultation with client, drafting and review of complaint | 1 |
| b. Drafting, editing, review, filing and service of complaint and related documents | 2 |
| c. Follow up With Defense and client | 2 |

$$5 \times \$350 = \$1,750$$

71. Plaintiff's attorney fees continue to accrue as the case move forward.

72. The above stated attorney fees include prosecution of this complaint to the date of the instant filing and reasonable follow up.

OTHER RELIEF

- 73. All previous paragraphs of this complaint are incorporated by reference and made a part of this portion of the complaint.
- 74. Plaintiff seeks injunctive relief barring further unlawful collection activity.
- 75. Plaintiff requests / demands a jury trial in this matter.
- 76. Plaintiff seeks fees and costs for prosecuting this action.
- 77. Plaintiff seeks such other relief as this Honorable Court may deem just and proper.

Wherefore, Plaintiff demands judgment against Defendant(s) in the amount of no less than \$7,751.00.

\$1.00 actual damages more or less for postage, stationary , fax, etc.

\$1,000.00 statutory damages under the FDCPA

\$5,000 statutory damages under TCPA

\$1,750.00 attorney fees

\$7,751

Plaintiff seeks such other relief as the Court deems just and fair.

/s/ Vicki Piontek

3/30/18

Vicki Piontek, Esquire
Supreme Court ID Number 83559
Attorney for Plaintiff
951 Allentown Road
Lansdale, PA 19446
877-737-8617
Fax: 866-408-6735
palaw@justice.com

Date

IN THE COURT OF COMMON PLEAS
OF MONTGOMERY COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

Greays Mendoza
447 E AIRY ST
NORRISTOWN, PA 19401

Plaintiff

v.
Diversified Consultants Inc.
10550 Deerwood Park Blvd #309
Jacksonville, FL 32256

Defendant

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2018-03352

Jury Trial Demanded

VERIFICATION

I, Greays Mendoza, have read the attached complaint. The facts stated in the complaint are true
and accurate to the best of my knowledge, understanding and belief.

Signature: 
Greays L. Mendoza (Mar 22, 2018)

Email: greays@yahoo.com